In the

Supreme Court of the United States

October Term, 1948

No. 453

MORRISON T. WADE, Petitioner

v.

THE PEOPLE OF THE STATE OF MICHIGAN

On application for writ of certiorari to the Recorder's Court of the City of Detroit, Michigan.

Brief opposing Petition for Certiorari

Stephen J. Roth,
Attorney General of the State of Michigan

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I

Opinion of Court Below[*]

The only opinion to which reference can be made, was rendered (55-57) on the 10th day of June 1948, when, at the close of appropriate proceedings had in open court,[1]

[*] Unless otherwise plainly indicated, numbers in parentheses refer to pages of the printed transcript of record.

[1] The contempt proceedings here in question, unlike those in In re Oliver, 333 U.S. 257, were held in open court following due notice; and the petitioner, unlike Oliver, was represented by counsel.

the petitioner was adjudged guilty of contempt. It is noteworthy, we think, that in such opinion the judge of the court below did not pass upon any federal question, nor was he urged to do so. The Supreme Court of the State of Michigan filed no opinion when they denied (58) petitioner's application (1) for leave to appeal,[2] nor did they necessarily decide a federal question.

II

Counter-Statement concerning Jurisdiction

The jurisdiction of this Court is invoked by petitioner under § 1257 (3), Title 28, United States Code, as revised in 1948, which so far as pertinent provides that "final judgments . . . rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court: . . . (3) by certiorari . . . where the validity of a state statute is drawn in question on the ground of its being repugnant to the Constitution . . . of the United States, or where any title, right, privilege or immunity is specially set up or claimed under the Constitution . . . of . . . the United States".

Petitioner urges, pp. 7-10, that the Court should take jurisdiction on two grounds, each of which, we think, may successfully be disputed:

First: It is suggested that during certain proceedings in the court below which culminated in an adjudication

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[2]

In Michigan, applications for leave to appeal to the Supreme Court, are heard as motions and decided ordinarily without opinion. Mich. Court Rule No. 60, Sec. 7.

finding the petitioner guilty of contempt, the validity of Michigan's "One-Man Grand Jury Act", so-called, was drawn in question on the ground of its being repugnant to the Constitution of the United States [3] (1) because it violates the guarantee to citizens of the State, of a "republican form of government", Federal Constitution, Art. IV, § 4; and (2) because it denies due process and equal protection of the law, as guaranteed by the Fourteenth Amendment.

Our Answer:

(a) The motion (Ex. 5, pp. 18-23) to dismiss the order (Ex. 4, pp. 17-18) to show cause why petitioner should not be "held in contempt and punished therefor", barely averred in the most general language possible, that the act thus "drawn in question" violated the constitutional guarantees aforesaid, but did not specify in what manner the petitioner was affected thereby.[4]

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[3]

It should be noted at the outset that the term "One-Man Grand Jury" is merely a descriptive phrase to designate a judicial officer who, under authority of the act, examines witnesses and, if justified, issues a warrant for the arrest of an accused person. In re Slattery, 310 Mich. 458. He does not indict, but merely performs the judicial function of instituting a criminal proceeding. Mich. Code of Criminal Procedure, chap. 7, §§ 3-6, incl.; 4 Mich. Comp. Laws 1948, §§ 767.3–767.6; Mich. Stat. Ann. (Henderson) §§ 28.943, 28.945, 28.946 and Mich. Stat. Ann. 1947 Cum. Supp. § 28.944, as amended.

[4]

The first and second grounds asserted by petitioner in his motion (18) to quash and dismiss the order to show cause, are merely that the "One-Man Grand Jury Act", so-called, violates the due process clause and the equal protection clause of the 14th Amendment, and Art. IV, § 4, of the Constitution of the United States.

(b) The record fails to show that petitioner urged the court below to find that the statute violated the Constitution of the United States, or that the court passed upon its validity. And the transcript of the hearing in open court (24-58) indicates no discussion of the federal question.

(c) The federal question here raised, possesses no substance.

Second: Petitioner also *seems* to contend, although this is not quite clear, that in the proceedings below, a right, privilege or immunity was specially set up or claimed for him under the Constitution of the United States, in that (1) his conviction of contempt of court "without his being permitted to have witnesses in his behalf" amounted to no proper hearing, and (2) that his conviction of contempt of court "after having produced the books and records required", was a denial of due process under the Fourteenth Amendment.

Our answer:

(a) In the petitioner's motion (Ex. 5, pp. 18-23) to dismiss and quash the order to show cause, no title, right, privilege or immunity was specially set up or claimed for him under the Constitution of the United States.

(b) At no point in the transcript of testimony taken at the hearing on the order to show cause (Ex. 6, pp. 24-58), or in the colloquy between court and counsel on that occasion, did the petitioner or his counsel set up or claim such title, right, privilege or immunity under the Constitution of the United States; nor did he at any time claim that the court had denied

him a federal constitutional right by refusing to permit him to have witness in his behalf; nor did he at any time assert that his conviction of contempt of court "after having produced the books and records required" was a denial of due process under the Fourteenth Amendment.

(c) There is no substance to petitioner's claims: he was not denied the right to have witnesses in his own behalf; and although he finally produced the required books and records, this did not relieve him of the charge of contempt in refusing to produce them when they were first demanded.

III

Counter-Statement of the Case.

We respectfully note the following inaccuracies and insufficiencies in petitioner's summary statement:[5]

1. If, as petitioner asserts, p. 2, this case challenges the *power* of the judges of the State of Michigan, to perform the duties imposed upon them by the act here in question, or to punish for contempt in such proceedings, then the question presented is non-federal.[6]

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[5] Supreme Court Rule No. 27, par. 4.

[6] It is important to note that in discussing the power of Michigan judges, as defined in the statute involved, and in other acts of the Michigan legislature, counsel for petitioner cites Michigan authority.

2. Since, in our view of the matter, petitioner's summary statement, pp. 2-7, is insufficient, we take the liberty of supplying in chronological order the course of procedure followed in the court below:

a

The subpoena duces tecum, service thereof.

1948,

May 5, the *subpoena duces tecum* to which petitioner refers, p. 3, was issued (Ex. 2, p. 12) out of and under the seal of the recorder's court of the city of Detroit, in the name of the presiding judge. It was delivered to petitioner's attorney, in the office of his law firm, the same afternoon. Petitioner was present in the office at the time and saw the delivery of the subpoena to his attorney.

During the hearing and taking of testimony, much time was devoted to the question whether the subpoena had been properly served on petitioner (24-29; 33-38), but it was not disputed that petitioner appeared before the judge who was sitting as a one-man grand jury, on the 6th day of May, 1948, and he did not bring with him any of the records listed in the subpoena (7).

b

Contempt Proceedings, and Motion to Quash and Dismiss.

May 7: An assistant prosecuting attorney filed in the court below a petition (Ex. 3, pp. 13-17) alleging *inter alia* that the petitioner had disobeyed the foregoing subpoena by refusing "to produce the books and records called for"

thereby, and by refusing and declining "to produce any of the said books and records . . . as commanded by the said subpoena" (14). The petition also alleged that during the session of the grand jury conducted by Judge Groat, "the said Morrison T. Wade, having appeared pursuant to said subpoena, was questioned as follows:", and it proceeded to quote certain questions and answers (14-17) pertinent to the refusal of the petitioner (witness) to produce the documents listed in the subpoena. The petition further alleged (17):

> "That the conduct of the said Morrison T. Wade in refusing and neglecting to produce the books and records as required by the said *subpoena duces tecum*, and his attitude and conduct in answering questions put to him before the Grand Jury and by the Grand Juror, were contumacious and in contempt of court".

Thereupon, in accordance with the prayer of the petition, an order (Ex. 4, pp. 17-18) issued out of and under the seal of the court below, signed by Judge Groat (18), commanding that "Morrison T. Wade appear before this court on the 12th day of May, A.D. 1948, 10:00 a.m., to answer as to why he should not be held in contempt of court and punished therefor, for his conduct as set forth in the petition attached hereto".

May 26: Counsel is correct in stating, p. 4, that he filed a motion (Ex. 5, pp. 18-23) to dismiss the order to show cause, but it is important to note that such a motion was filed approximately 19 days after the order to show cause issued.

The contents of the motion also are important, for with the exception of paragraphs I, II, and III thereof, no constitutional or federal questions were raised by petitioner.

Paragraph I thereof merely asserts that "the so-called one-man Grand Jury law (citing it) . . . is unconstitutional in that it violates the 14th Amendment to the United States Constitution", and counsel then quotes at length the due process and equal protection clauses of the Amendment.

Paragraph II alleges that the act is "in violation of Section 4 of Article IV of the Constitution of the United States, guaranteeing a republican form of government to all the States and the citizens thereof".

And paragraph III raises a non-federal question, claiming that the act "violates Section 2 of Article IV of the Constitution of the State of Michigan" (19).[7]

The remaining paragraphs of the motion to dismiss (19-23), raise no federal questions, and do not even mention the Constitution of the United States.

It is said, p. 4, that the motion to dismiss "came on to be heard before Judge Groat, also acting as the one-man grand jury, who denied the motion, and proceeded to the hearing on the order to show cause for contempt". But the record is silent on what transpired if and when the motion to dismiss was argued and denied. The journal entry of June 9, 1948, a certified copy of which appears as Appendix "A", this brief, recites that on that date "a motion to dismiss the order to show cause . . . is now heard by the court, in part. Thereupon it is ordered by the court that further hearing on said motion be continued until the tenth (10th) day of June, 1948". The journal entry of June 10, 1948,

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[7]

Art. IV, § 2, Mich. Const. 1908 provides: "No person belonging to one department shall exercise the powers properly belonging to another, except in the cases expressly provided in this Constitution."

Appendix B, this brief, recites that upon conclusion of hearing on the order to show cause, the petitioner is adjudged guilty of contempt, and sentenced therefor; and a stay of proceedings is granted. But there is nothing in the record of such proceedings to show that the petitioner urged upon the court consideration of any federal questions.

c

Hearing in Open Court.

We cannot accept as sufficient petitioner's statement, pp. 4-7, of the substance of the proof taken in open court upon the hearing on the order to show cause (24-58).

Walter Stapleton (24-25) and **Thomas Turkaly** (25-27), police officers of the city of Detroit, testified in relation to the service of the *subpoena duces tecum* in the office of petitioner's counsel.[8]

Morrison T. Wade, the petitioner, took the stand in his own behalf and testified at first (27-30) concerning the service of the subpoena in the office of his counsel, the substance of such testimony being that the subpoena was not served upon him and that it was handed to his counsel in his presence. On cross-examination (29-30) he admitted he heard the word "subpoena" used and that he came over to court the following day in response thereto. The assistant prosecuting attorney then proceeded to inquire whether, when he came over to the court of Judge Groat, he had

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[8]

It is a fair inference from this and other testimony, that throughout the proceedings from the moment the subpoena was served, to the final order of the court, petitioner had the benefit of advice of counsel of his own choice.

claimed that he had been illegally served with the subpoena. His answers, which we respectfully invite the Court to read (30-33), were quite evasive, and they need not be repeated here.

Following the testimony (33-38) of one of petitioner's counsel, who related her version of the circumstances surrounding the service of the subpoena, petitioner was further cross-examined and asked the following question (39):

> "Q. So that when you . . . came over here and were asked if you had been subpoenaed and you said that you had in Mr. Davidow's office, you had an opportunity at that time to raise any question as to the impropriety of the service, hadn't you?"

The Court is invited to read such cross-examination (39-43), which was conducted by the assistant prosecutor in an effort to obtain a direct answer to the foregoing question, and to draw their own conclusion as to whether the witness was deliberately evasive. The essence of petitioner's testimony on this subject, was that during the course of his examination when called before Judge Groat, by said subpoena, he did not claim the service of the subpoena had been improper, because the first thing he said when he sat down (43) that morning was that he did not waive any of his legal or constitutional rights; and he thought such an opening statement covered the claim that he had not been properly served.

During examination of this witness (45), the prosecutor referred to petitioner's motion to dismiss, paragraph 15, which reads as follows (22):

> "That contrary to the assertions made in Paragraph 7 (of the petition for order to show cause), the excerpts

quoted are fragmentary, incomplete, selective, and, in at least one instance, false; that the tenor sought to be conveyed by the excerpts presented is wholly false".

Defense counsel then complained that petitioner's statement (to the effect that he did not intend to waive any of his legal or constitutional rights) was omitted from the petition; and that asterisks appearing therein indicated that considerable testimony had been left out (46). He also directed attention to the following questions and answers appearing in the petition:

"**A.** Mr. Groat (referring to the judge)—

Q. (by the prosecutor) Judge Groat to you, Mr. Wade.

A. He is not sitting in the capacity of a Grand Jury. However, in due respect to him I will be glad to call him Judge" (15).

And, challenging their correctness, he stated (47) that what the witness actually said was that "He (Judge Groat) is *now* (instead of "not") sitting as a Grand Jury".

The Court ruled (48) that "on this one question we have had here, the motion to dismiss the order to show cause is denied".

Counsel for petitioner requested the court to produce the reporter "to make available the transcript of the entire testimony" taken on the occasion when petitioner refused to produce the books and records named in the *subpoena duces tecum*. He also stated (49-50) he wished to bring in other witnesses.

After considerable argument, during which it may be noted there was no insistence upon federal constitutional rights as such, the petitioner was recalled to the stand; he testified (52) he was perfectly willing to turn (over) to the judge all of the books and records "you want that I have" by Friday morning (two days hence). They could not, he said (53), be produced that afternoon because of the temporary absence of a Mr. Fluke who had the keys to the safe. It was thereupon agreed that the books and records would be produced the following morning and the case would be adjourned until 9:30 a.m.

Counsel inquired if opportunity would be afforded him to put in further proof, and the court informed him that if he brought in the proper witnesses "and the court deems it advisable, I will let them testify. If you don't, they don't testify. Nine-thirty tomorrow morning. Have all the records here" (53).

When court convened the morning of June 10th, counsel stated (53-54), among other things, that the books and records demanded were in an automobile nearby, and he requested assistance of court aides to bring them up, but for the purpose of the record he added:

> "We would like to say very definitely that these records are being turned over under protest, not conceding or admitting the right of the court to have possession of the same".

Whereupon, after further discussion concerning a check of the books and records, and a receipt for the same, the court found the petitioner guilty of contempt (55-57) and sentenced him (57) to pay a fine of $100, or serve 30 days

in the county jail. A stay of proceedings was granted pending application to the Supreme Court of Michigan for leave to appeal.

We cannot accept the intimation, petition, p. 5, that petitioner was denied the privilege of putting in proofs; the order to show cause (17) was issued on the 7th day of May; motion to dismiss was not filed until the 26th day of May; and the hearing was held on the 9th and 10th days of June, 1948. Our position is that counsel had ample opportunity to produce necessary witnesses without the further adjournments which he requested; and we shall argue that testimony bearing on the materiality of the records and books called for by the subpoena was irrelevant.

And we invite the Court's attention to the fact that the final paragraph of petitioner's summary statement, pp. 6 and 7, refers to matters wholly outside the record. We respectfully submit it should be disregarded.

IV

The Argument.[9]

I

Is the so-called one-man grand jury act of Michigan,[10] a violation of the 14th Amendment to the Constitution of the United States?

The contention here, petitioner's brief, p. 14, seems to be that the so-called one-man grand jury act violates the 14th Amendment because the proceeding of the so-called one-man grand jury "is not a court proceeding"; it is a grand jury under the statute, "and the judge acting as the grand jury does not function as a judge, but as a grand juror", and counsel cite

In re Oliver, 333 U.S. 257.

One answer to such a contention is that a judge examining witnesses pursuant to Michigan's Code of Criminal Procedure, performs the judicial function; that his examination of witnesses leads to the issuance of a warrant, fol-

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[9]

For convenience we follow the order of argument set forth in petitioner's brief.

[10]

Michigan Code of Criminal Procedure, chap. 7, §§ 3–6, incl.; Vol. 4, Mich. Comp. Laws 1948, §§ 767.3–767.6; Mich. Stat. Ann. (Henderson) §§ 28.943, 28.945, 28.946, and Cum. Supp. 1947 § 28.944, as amended.

lowed by a preliminary examination before a presiding magistrate, and he does not "indict",

In re Slattery, 310 Mich. 458; certiorari denied, 325 U.S. 876;

Slattery v. MacDonald, 151 F. 2d 326; certiorari denied, 327 U.S. 814.

The situation in the case at bar does not bear the faintest resemblance to that of *Oliver, supra.* Here, the contemner was given due notice of hearing and had over a month to prepare his defense; and he was represented by counsel of his own choice. We respectfully submit that the *Oliver* case does not apply.

Moreover, as we have noted in our counter-statement concerning jurisdiction, this question was not urged in the court below.

2

Does the so-called one-man grand jury act deny a citizen the republican form of government?

A short and complete answer to petitioner's contention is that questions arising under Article IV, § 4, of the Constitution of the United States "are political, not judicial, in character and thus are for the consideration of the Congress, and not the courts",

Ohio ex rel. Bryant v. Akron Metro. Park District, 281 U.S. 74, 80, and cases cited.

Counsel attempt to connect Art. IV, § 4, of the Constitution of the United States, and its guarantee of a republican

form of government, with the doctrine of the separation of the powers of government, a political philosophy with which our courts have no quarrel,

> *Local 170, Transport Workers Union of America v. Circuit Judge*, 322 Mich. 332,

but we fail to see how it may be applied to the case at bar.

> "How power shall be distributed by a state among its governmental organs is commonly, if not always, a question for the state itself",
>
> *Highland Farms Dairy v. Agnew*, 300 U.S. 608, 612.

Or, as Mr. Justice Harlan said for the Court in an earlier case, *Dryer v. Illinois*, 187 U.S. 71, 84:

> "Whether the legislative, executive and judicial powers of a State shall be kept altogether distinct and separate, or whether persons or collections of persons belonging to one department may, in respect to some matters, exert powers which, strictly speaking, pertain to another department of government, is for the determination of the State. And its determination one way or the other cannot be an element in the inquiry whether the due process clause prescribed by the Fourteenth Amendment has been respected by the State or its representatives when dealing with matters involving life or liberty".

And, speaking for the Court, Mr. Chief Justice Hughes said:

> "A State may distribute its powers as it sees fit, provided only that it acts consistently with the essential demands of due process and does not transgress those restrictions of the Federal Constitution which are applicable to State authority",
>
> *Crowell v. Benson,* 285 U.S. 22, 57.

3

Are the proceedings of a so-called one-man grand jury a denial of due process and equal protection of the laws?

(a) It is urged, brief, pp. 20-24, that in the one-man grand jury, the officer (the judge) is attempting to function in a judicial capacity and as a grand juror which is a non-judicial function.

This is not a federal question. See authorities cited in answer to petitioner in question 2, *supra.* This Court, according to such decisions, will not concern itself with questions involving the separation of powers of government by a State. We merely note that the authorities cited by petitioner are either Michigan cases or decisions of this Court involving federal statutes.

Moreover, if the question was ever raised in the court below, petitioner contended (19) that the act violated provisions of the State Constitution, § 2 of Article IV.

(b) It is urged, brief, pp. 25-30, that a judge of the recorder's court of the city of Detroit has no jurisdiction

under the laws of the State of Michigan to initiate criminal proceedings. And counsel cites and quotes the language of several Michigan statutes in an effort to sustain his contention.

Our position is that this is a non-federal question, and that it was not raised as a federal question in the court below.

4

Is it a denial of due process to convict a person of contempt of court for alleged misconduct before a judge acting as a secret one-man grand jury?

Under this heading, counsel contend, brief, pp. 30-36, that before petitioner could be compelled to produce the books and records listed in the subpoena, it was necessary for the judge to make some showing that they were material to the inquiry. And again, Michigan law is cited, raising questions for consideration of the State courts.

Our first answer is that this was not raised as a federal question in the court below, for the petitioner did not specially set up of claim any "title, right, privilege or immunity . . . under the Constitution . . . of . . . the United States".

And there is no substance to the claim, for it is a general rule that immateriality of evidence sought to be elicited cannot justify the petitioner's refusal to produce the books,

> Dangel, Contempt, § § 307, 308, and authorities there cited.

A point is sought to be made of the fact that at the close of the hearing on the charge of contempt, the petitioner purged himself thereof by producing the books, and it is suggested that the court thereby lost jurisdiction to punish for contempt. But the course of proceedings before the judge who sat to examine witnesses pursuant to chap. 7, § § 3-6, of the Code of Criminal Procedure, was delayed for over a month by petitioner's stubborn refusal to obey the *subpoena duces tecum*, and that such a contempt should not go unpunished. In any event, whether it should or should not be ignored by the judge of a court of record, is a non-federal question.

It is next contended that the judge was not sitting as a court, but that is mere repetition, and the questions raised, brief, pp. 36-39, are strictly non-federal.

Nor is it a federal question, brief, p. 40, whether the judge "pre-judged" the petitioner; that is a question of fact, and, we respectfully submit, there is sufficient evidence on the face of the hearing transcript, to justify the conclusions drawn by the judge. The petitioner, we respectfully submit, was contumacious even in his answers given on that occasion. It is sufficient to note, we think, that the witness refused to produce the books and papers demanded, and that such refusal continued for a period of approximately 35 days.

5

Even assuming a witness has testified in open court, is it a denial of due process to convict him of contempt of court upon an incomplete record made up of excerpts taken from testimony before a "one-man grand jury", without a complete record and without permitting him to testify and have witnesses in his behalf?

As framed by petitioner's counsel, the question admits of but one answer, controlled by the *Oliver* case; but counsel are mistaken in their premises.

The petitioner was not convicted on an incomplete record: he had a hearing in open court on a very narrow issue, *viz.*, whether he had disobeyed the subpoena, and the petition (13-18) set forth sufficient allegations of fact to advise the accused of the nature of the charge.

He was not denied the privilege of testifying as a witness in his own behalf; the bulk of the transcript of hearing is devoted to such testimony.

And he was not denied the right to produce witnesses; had proper witnesses been produced, and if their testimony proved relevant, the court would undoubtedly have heard them; that, we think, was the intent of the ruling (53).

In any event counsel did not raise the federal question now presented, when he moved for adjournments, or when he requested opportunity of putting in certain proofs. And in his application for leave to appeal to the Supreme Court of the State of Michigan, he assigned no federal ground

for reversal, other than those set forth in paragraph IV, (a) and (b). He did not, in such application, specially set up or claim any right under the Constitution of the United States.

V

Conclusion.

We, therefore, respectfully submit that the petition for certiorari should be denied.

Respectfully submitted,

Stephen J. Roth,
Attorney General of the State of Michigan

Edmund E. Shepherd
Solicitor General of the State of Michigan

Daniel J. O'Hara
Assistant Attorney General

Counsel for Respondent

Appendixes

Appendix "A"

Clerk's Certificate—Recorder's Court

Form C of D—46-CE

THE RECORDER'S COURT OF THE
CITY OF DETROIT

STATE OF MICHIGAN,
COUNTY OF WAYNE,
CITY OF DETROIT } ss.

I, E. Burke Montgomery, Clerk of the Recorder's Court of the City of Detroit, do hereby certify that the foregoing is correctly taken and copied from the original record in the case of One Man Grand Jury vs. Morrison T. Wade, Case No. 49945 now remaining in my office, and of record in said Court, and that the same has been examined and compared by me with the original of said record in said cause, and that it is a correct transcript therefrom, and of the whole of such original record.

[SEAL]

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court at Detroit, this 3rd day of February in the year one thousand nine hundred and forty-nine.

E. Burke Montgomery,
Clerk.

At a session of the Recorder's Court of the City of Detroit, held in and for said City, at the court room of said court, on Wednesday the 9th day of June in the year of our Lord nineteen hundred and forty-nine.

Present, HON. JOHN J. MAHER, Recorder of the City of Detroit, HON. JOSEPH A. GILLIS, PAUL E. KRAUSE, ARTHUR E. GORDON, O. Z. IDE, CHRISTOPHER E. STEIN, GEORGE MURPHY, GERALD W. GROAT, W. McKAY SKILLMAN, JOHN P. SCALLEN, Judges of the Recorder's Court.

HONORABLE JOHN J. MAHER, Presiding Judge of the Recorder's Court of the City of Detroit.

BEFORE JUDGE GERALD W. GROAT

ONE MAN GRAND JURY
VS. Misc. 49945
MORRISON T. WADE

Order to show cause why respondent should not be held to be in Contempt of Court.

William P. Long, counsel for the People
Larry S. Davidow, counsel for the respondent

In the above matter, a motion to dismiss the order to show cause, filed in the above entitled cause, is now heard by the Court, in part. Thereupon it is ordered by the Court that further hearing on said motion be continued until the tenth (10th) day of June, 1948.

Read, corrected and signed
in open court

JOHN J. MAHER
Recorder

STATE OF MICHIGAN,
County of Wayne,
City of Detroit. } ss.

I, E. BURKE MONTGOMERY, Clerk of the Recorder's Court of the City of Detroit, do hereby certify that the foregoing is correctly taken and copied from the original record made in said cause now remaining in my office, and of record in said court, and that the same has been examined and compared by me with the original of said record in said cause, and that it is a correct transcript therefrom, and of the whole of such original record.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said court, at Detroit, this 3rd day of February in the year one thousand nine hundred and forty-nine.

[SEAL]

E. Burke Montgomery,
Clerk.

Appendix "B"

Clerk's Certificate—Recorder's Court

Form C of D—46-CE

THE RECORDER'S COURT OF THE
CITY OF DETROIT

STATE OF MICHIGAN,
COUNTY OF WAYNE,
CITY OF DETROIT } ss.

I, E. Burke Montgomery, Clerk of the Recorder's Court of the City of Detroit, do hereby certify that the foregoing is correctly taken and copied from the original record in the case of One Man Grand Jury vs. Morrison T. Wade, Case No. 49945 now remaining in my office, and of record in said Court, and that the same has been examined and compared by me with the original of said record in said cause, and that it is a correct transcript therefrom, and of the whole of such original record.

[SEAL]

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court at Detroit, this 3rd day of February in the year one thousand nine hundred and forty-nine.

E. Burke Montgomery,
Clerk.

At a session of the Recorder's Court of the City of Detroit, held in and for said City, at the court room of said court, on Thursday the 10th day of June in the year of our Lord nineteen hundred and forty-nine.

Present, HON. JOHN J. MAHER, Recorder of the City of Detroit, HON. JOSEPH A. GILLIS, PAUL E. KRAUSE, ARTHUR E. GORDON, O. Z. IDE, CHRISTOPHER E. STEIN, GEORGE MURPHY, GERALD W. GROAT, W. McKAY SKILLMAN, JOHN P. SCALLEN, Judges of the Recorder's Court.

HONORABLE JOHN J. MAHER, Presiding Judge of the Recorder's Court of the City of Detroit.

BEFORE JUDGE GERALD W. GROAT

IN THE MATTER OF THE CONTEMPT OF COURT

By one Morrison T. Wade Miscellaneous No. 49945

William P. Long, counsel for the People
Larry Davidow, counsel for Morrison T. Wade

Hearing on an order to show cause why the said Morrison T. Wade should not be held to be in Contempt of Court, having been concluded in open court, the Court now adjudges the said Morrison T. Wade guilty of Contempt of Court and the same Morrison T. Wade is now sentenced by the court to pay a fine of Fifty ($50.00) Dollars and costs of Fifty ($50.00) Dollars or in default thereof to be committed to the Wayne County Jail and therein confined for a term of thirty (30) days.

Thereupon the Court grants a stay of sentence for ten (10) days within which to perfect an appeal to the Supreme Court and it is hereby ordered by the Court that the bail

for said defendant be fixed at One thousand ($1,000) Dollars with one (1) good and sufficient surety pending an appeal to the Supreme Court in said matter.

Read, corrected and signed
in open court

JOHN J. MAHER
Recorder

STATE OF MICHIGAN,
County of Wayne,
CITY OF DETROIT. } ss.

I, E. BURKE MONTGOMERY, Clerk of the Recorder's Court of the City of Detroit, do hereby certify that the foregoing is correctly taken and copied from the original record made in said cause now remaining in my office, and of record in said court, and that the same has been examined and compared by me with the original of said record in said cause, and that it is a correct transcript therefrom, and of the whole of such original record.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said court, at Detroit, this 3rd day of February in the year one thousand nine hundred and forty-nine.

[SEAL]

E. Burke Montgomery,
Clerk.